

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

IN RE: ETHICON, INC., PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION	Master File N. 2:12-MD-02327 MDL NO. 2327
THIS DOCUMENT RELATES TO ALL CASES	JOSEPH R. GOODWIN U.S. DISTRICT JUDGE

**PLAINTIFFS' RESPONSE TO DEFENDANTS
JOHNSON & JOHNSON AND ETHICON, INC.'S
SUPPLEMENTAL SUBMISSION IN CONNECTION WITH ITS
MOTION FOR COORDINATION REGARDING PRIVILEGE CHALLENGES**

Plaintiffs make this supplemental submission in response to Defendants Johnson & Johnson and Ethicon, Inc.'s supplemental submission in connection with its motion for coordination on privilege issues between this Court and the state court presiding over *Cavness v. Kowalczyk*,¹ pending in the Texas District Court for the 95th Judicial District. Defendants mistakenly state that that motion was granted on February 11, 2015 – it was not. Instead, during that *sua sponte* court-ordered telephone hearing, Magistrate Eifert recognized that “the judge in Texas needs to make decisions in the Texas case. And I don’t know what I can or would do would do about that ...”

There is presently a hearing set in *Cavness* on March 6, 2015 regarding Plaintiff Cavness’ request that Defendants submit the 47 documents for which privileges are currently disputed to the Texas District Court judge for *in camera* inspection.

¹ Plaintiff in *Cavness* is not a party before this court.

Defendants have represented both to the Texas Court and to this court that the documents will be submitted to the *Cavness* court for *in camera* inspection. Thus, there is simply nothing that requires the attention of this court.

Regardless, attached to this submission are the following:

1. A brief explaining the law with regard to Defendants' challenged privilege designations entitled "Plaintiff's Reply Memorandum in Response to Defendants Johnson & Johnson and Ethicon's Opposition to Plaintiff's For *In Camera* Inspection";² and
2. A brief regarding the choice-of-law issues entitled "Plaintiff's Memorandum Regarding Choice of Law With Respect to Privilege Issues in Further Opposition to Defendants' Motion for Order Directing Parties to Coordinate Resolution of Discovery Disputes Between State and Federal Court".

Dated: March 2, 2015

Respectfully submitted,

MATTHEWS & ASSOCIATES

/s/ Julie L. Rhoades

David P. Matthews

Texas Bar. No. 13206200

dmatthews@thematthewslawfirm.com

Julie L. Rhoades

Texas Bar. No. 16811710

2905 Sackett St

Houston, TX 77098

713-522-5250 Telephone

² This brief is also being filed in *Cavness*.

713-535-7132 Facsimile

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk for The Judicial Panel on Multidistrict Litigation pursuant to its electronic case filing system (ECF). The ECF sent a “Notice of Electronic Filing” to the attorneys of record who have consented to accepting service via this method.

Certified to the 2nd day of March, 2015 by:

/s/ Julie L. Rhoades
Julie L. Rhoades